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HOUSE BILL NO. 254  
INTRODUCED BY M. PHILLIPS

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO  
5 ADOPT RULES AND FEES FOR THE REPORTING AND QUANTIFICATION OF GREENHOUSE GAS  
6 EMISSIONS; ESTABLISHING A GREENHOUSE GAS MANAGEMENT ACCOUNT; ~~REQUIRING THE BOARD~~  
7 ~~TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND PROVIDE A PROPOSAL FOR REDUCING~~  
8 ~~EMISSIONS IN MONTANA;~~ AMENDING SECTIONS 75-2-111 AND 75-2-221, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Purpose -- legislative intent.** (1) Because uncertainty about how carbon  
14 dioxide may be regulated at the regional and federal level is hampering investment in various Montana energy  
15 resources, Montana citizens and businesses will be better served if Montana is represented during negotiations  
16 over these future regulations.

17 (2) It is the intent of the legislature that Montana be prepared and in the best position possible to evaluate  
18 and respond to carbon market initiatives, including:

19 (a) regional initiatives;

20 (b) federal cap and trade legislation; and

21 (c) private sector requests for documentation of early actions to reduce greenhouse gas emissions.

22

23 NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, as used in [sections  
24 1 through ~~54~~], the following definitions apply:

25 (1) "Board" means the board of environmental review provided for in 2-15-3502.

26 (2) "Department" means the department of environmental quality provided for in 2-15-3501.

27 (3) "Greenhouse gas" includes the following gases:

28 (a) carbon dioxide;

29 (b) methane;

30 (c) nitrous oxide;

1 (d) hydrofluorocarbons;

2 ~~(e) black carbon;~~

3 ~~(f) perfluorocarbons; and~~

4 ~~(g) sulfur hexafluoride; and~~

(g) OTHER GASES OR SUBSTANCES AS THEY ARE INCORPORATED IN THE FUTURE INTO REGIONAL OR FEDERAL GREENHOUSE GAS REGULATORY PROGRAMS APPLICABLE IN MONTANA.

5 (4) "Greenhouse gas emission source" or "source" means a person who:

6 (a) generates greenhouse gas emissions at a level significant enough to impact statewide greenhouse

7 gas emissions, WHICH GENERALLY MEANS ANNUAL EMISSIONS OF 10,000 METRIC TONS OF CARBON DIOXIDE EQUIVALENT OR GREATER ON THE AVERAGE;

8 (b) provides fuel to a category of sources EMITTERS that collectively generate greenhouse gas emissions at a level

9 that significantly impacts statewide greenhouse gas emissions, WHICH GENERALLY MEANS ANNUAL EMISSIONS OF 10,000 METRIC TONS OF CARBON DIOXIDE EQUIVALENT OR GREATER ON THE AVERAGE; or

10 (c) imports electricity into Montana from sources that:

(i) would be subject to the reporting requirements

11 pursuant to [sections 1 through 54] if the source ~~was~~ WERE under the jurisdiction of the state; OR

(ii) IS SUBJECT TO ANOTHER GOVERNMENT WITH WHICH THE STATE HAS AGREEMENTS THAT CONTAIN REQUIREMENTS CONSISTENT WITH [SECTIONS 1 THROUGH 4].

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13 **NEW SECTION. Section 3. Greenhouse gas emission reporting -- rulemaking.** (1) Before January  
14 1, 2010, the board shall adopt rules that:

15 (a) further define greenhouse gas emission sources and categories of sources;

16 (b) require the reporting and verification of greenhouse gas emissions in order to quantify emissions in  
17 Montana;

18 (c) adopt a schedule requiring the quantification and annual reporting of greenhouse gas emissions from  
19 greenhouse gas emission sources;

20 (d) ensure rigorous and consistent accounting of greenhouse gas emissions and provide reporting tools

21 and formats to ensure the collection of necessary information, including third-party verification, WHEN AND AS LONG as needed;

(e) ENSURE THAT VERIFICATION REQUIREMENTS ARE NOT IN EXCESS OF THOSE NEEDED TO SATISFY THE REQUIREMENTS OF CARBON TRADING MARKETS;

22 ~~(ef)~~ ensure that greenhouse gas emission sources and the department provide for the maintenance of

23 comprehensive records of all reported greenhouse gas emissions; and

24 (fg) are consistent with comparable regional and national efforts-: AND

(h) REQUIRE EMISSIONS BE REPORTED AT ONE GREENHOUSE GAS EMISSION SOURCE ONLY, TO  
ENSURE DOUBLE COUNTING IS AVOIDED.

25 (2) (a) Before January 1, 2010, the board shall adopt rules that establish a fee schedule to be paid to  
26 the department by greenhouse gas emission sources required to report and verify emissions pursuant to rules  
27 established under subsection (1).

28 (b) The fees must be sufficient to cover the reasonable costs, direct and indirect, of administering and  
29 complying with the rules and requirements established pursuant to [sections 1 through 54].

30 (c) All fees collected pursuant to [sections 1 through 54] must be deposited in the greenhouse gas

1 management account provided for in [section 4].

2 (3)(a) The board shall periodically review and update its emission reporting requirements and fees to  
3 promote consistency among international, federal, and regional greenhouse gas emission reporting programs  
4 and streamline reporting requirements on greenhouse gas emission sources.

(b) THE BOARD SHALL REDUCE OR RESCIND THESE FEES IF FUNDS ARE APPROPRIATED AS PART OF  
A GREENHOUSE GAS REGULATORY PROGRAM TO COVER THE REQUIREMENTS OF THIS CHAPTER.

5

6 **NEW SECTION. Section 4. Greenhouse gas management account.** (1) There is a greenhouse gas  
7 management account in the state special revenue fund provided for in 17-2-102.

8 (2) There must be deposited in the account:

9 (a) all revenue from the fees collected pursuant to rules established under [section 3]; and

10 (b) money received by the department in the form of legislative allocations, reimbursements, gifts, or  
11 appropriations from any source that is intended to be used for the purposes of the account.

12 (3) The account may be used by the department only for administering and complying with the rules and  
13 requirements established pursuant to [sections 1 through 54].

14

~~15 NEW SECTION. Section 5. Greenhouse gas reporting and review. (1) By August 1, 2010, the  
16 department shall report to the environmental quality council, established in 5-16-101, on its activities and its  
17 progress in performing the duties required pursuant to rules adopted under [section 3].~~

~~18 (2) The report must include but is not limited to:~~

~~19 (a) a proposal to achieve real, permanent, quantifiable, verifiable, and enforceable reductions in  
20 greenhouse gas emissions;~~

~~21 (b) a proposal for capping greenhouse gas emissions from sources or categories of sources of  
22 greenhouse gases by 2020; and~~

~~23 (c) the total potential costs and total potential economic and noneconomic benefits of the plan for capping  
24 greenhouse gases to Montana's economy, environment, and public health using the best available economic  
25 models, emission estimation techniques, and other scientific methods.~~

26

27 **Section 6.** Section 75-2-111, MCA, is amended to read:

28 **"75-2-111. Powers of board.** The board shall, subject to the provisions of 75-2-207:

29 (1) adopt, amend, and repeal rules for the administration, implementation, and enforcement of this  
30 chapter, for issuing orders under and in accordance with 42 U.S.C. 7419, and for fulfilling the requirements of 42

1 U.S.C. 7420 and regulations adopted pursuant to that section, except that, for purposes other than agricultural  
2 open burning, the board may not adopt permitting requirements or any other rule relating to:

3 (a) any agricultural activity or equipment that is associated with the use of agricultural land or the  
4 planting, production, processing, harvesting, or storage of agricultural crops by an agricultural producer and that  
5 is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661; or

6 (b) a commercial operation relating to the activities or equipment referred to in subsection (1)(a) that  
7 remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475,  
8 7503, or 7661;

9 (2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place  
10 designated by the board. The board may compel the attendance of witnesses and the production of evidence at  
11 hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter  
who

12 must be present at all hearings and take full stenographic notes of all proceedings, transcripts of which will be  
13 available to the public at cost.

14 (3) issue orders necessary to effectuate the purposes of this chapter;

15 (4) by rule require access to records relating to emissions;

16 (5) by rule adopt a schedule of fees required for permits, permit applications, and registrations consistent  
17 with this chapter;

18 (6) by rule adopt a schedule of fees required for greenhouse gas emission sources consistent with this  
19 chapter;

20 (6)(7) have the power to issue orders under and in accordance with 42 U.S.C. 7419."

21

22 **Section 7.** Section 75-2-221, MCA, is amended to read:

23 **"75-2-221. Deposit of air quality permitting fees.** (1) All Except as provided in [section 4], all money  
24 collected by the department pursuant to 75-2-111 and 75-2-220 must be deposited in an account in the state  
25 special revenue fund to be appropriated by the legislature to the department for the development and  
26 administration of the permitting requirements of this chapter.

27 (2) Upon request, the expenditure by the department of funds in this account may be audited by a  
28 qualified auditor at the end of each fiscal year. The cost of the audit must be paid by the person requesting the  
29 audit."

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1 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 54] are intended to be codified  
2 as an integral part of Title 75, chapter 2, and the provisions of Title 75, chapter 2, apply to [sections 1 through 54].

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4 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

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